

U. S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
COURT
TEXAS
FILED
NOV 29 1999
NANCY DOHERTY, CLERK
By _____ Deputy

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V.

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Defendants.

NO.

**3-99CV2687-L**

CHARLEY BIRKES ("Birkes"), LINDA SWENSON ("Swenson"), EQUITY HOUSING GROUP ("Equity Housing"), and EQUITY GROUP 99, L.L.C. ("Equity 99"; collectively, "Defendants"), the Defendants in the above-styled and numbered cause, file this their Notice of Removal, and for same would show the Court as follows:

A. On or about November 1, 1999, Plaintiff William E. Baldridge ("Baldridge"), an individual resident of the State of Texas, filed his Plaintiff's Original Petition and Application for Temporary Restraining Order and Temporary Injunction and Expedited Discovery ("Plaintiff's Petition") against Defendants in the 193<sup>rd</sup> Judicial District Court for Dallas County, Texas, under cause no. DV99-8652, styled *William E. Baldridge v. Charley Birkes, Linda Swenson, Equity Housing Group, and Equity Group 99, L.L.C.* ("the State Court Suit").

B. On or about November 2, 1999, Plaintiff obtained a Temporary Restraining Order in the State Court Suit, which Temporary Restraining Order expired without extension or further hearing 14 days after its issuance.

C. Copies of the Plaintiff's Petition, citations served, and orders entered and served in the State Court Suit are attached hereto in compliance with 28 U.S.C.A. §1446(a), and are listed more particularly in the attached Schedule A.

## **2. GROUND FOR REMOVAL OF STATE COURT SUIT**

A. This is an action over which the United States District Courts have original jurisdiction under 28 U.S.C.A. §1332.

B. As set forth in the Plaintiff's Petition, Plaintiff Baldridge is an individual who resides in Dallas County, Texas. Plaintiff's Petition, ¶2. Defendants Birkes and Swanson each are individuals who are residents of Los Angeles County, California. Plaintiff's Petition, ¶¶3,4. Defendants Equity Housing is a corporation and Equity 99 is a limited liability corporation, both formed in and under the laws of the State of California with their principal and registered offices in the State of California. Plaintiff's Petition, ¶¶5,6. Accordingly, there is complete diversity of citizenship between the Plaintiff (a Texas resident) and the Defendants (all California residents). *See*, 28 U.S.C.A. §1332(a)(1).

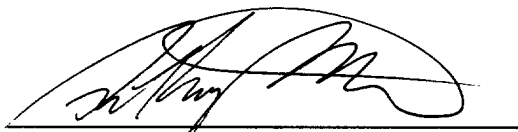
C. Without regard to the validity of his allegations (which Defendants deny), Baldridge asserts in his Plaintiff's Petition, among other things, that Defendants Birkes and Swanson agreed "to contribute 60% of any and all cash shortfall required by the Arizona Deal," (Plaintiff's Petition, ¶15), and that Baldridge has been required to "advance almost \$500,000.00, to date, to cover capital

shortfalls" in the Arizona Deal. Plaintiff's Petition, ¶17. Therefore, Baldridge seeks at least 60% of \$500,000.00 (Plaintiff's Petition, §§IV, VI, X), or approximately, \$300,000.00 in damages from Defendants. Moreover, Baldridge asserts potential damages of \$8,814,000.00 resulting from a personal guaranty made by Baldridge. Plaintiff's Petition, §XI. Accordingly, the matter in controversy exceeds \$75,000.00 as required by 28 U.S.C.A. §1332(a).

D. Removal is proper in a civil action which meets the original jurisdiction requirements of 28 U.S.C.A. §1332, provided that, as in this case, none of the Defendants is a citizen of the state in which the action is brought. 28 U.S.C.A. §1441(b). Defendants are all California residents joined in the State Court Suit in Dallas County, Texas. Therefore, Defendants hereby exercise their right to remove this matter to this Court, following the procedures under 28 U.S.C.A. §1446.

WHEREFORE, Defendants Charley Birkes, Linda Swenson, Equity Housing Group, and Equity Group 99, L.L.C. file this Notice of Removal pursuant to 28 U.S.C.A. §1446, removing the state court proceeding identified herein to this United States District Court for further proceedings and disposition, and pray that the Court deny all relief requested by Plaintiff in his pleadings, and grant them such other and further relief in law and in equity to which they may be entitled.

Respectfully submitted,



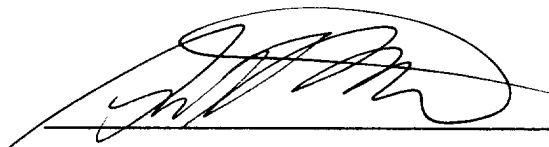
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ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

A true copy of the foregoing Defendants Notice of Removal has been served on attorney for Plaintiff, Gregory K. Ackels, Ackels & Ackels, L.L.P., 2777 Stemmons Freeway, Suite 879, Dallas, Texas 75207, by facsimile transmission and by hand delivery, on the 29<sup>th</sup> day of November, 1999.



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